

# *Nova Law Review*

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*Volume 11, Issue 1*

1986

*Article 3*

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## The Efficient Delivery of Arbitration Services Through Use of the Arbitration Firm

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## **Abstract**

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**KEYWORDS:** disputes, delivery, arbitration

# The Efficient Delivery of Arbitration Services Through Use of the Arbitration Firm

Roger I. Abrams\* and Dennis R. Nolan\*\*

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## I. Introduction

When a company and a union negotiate a collective agreement, they anticipate that disputes will arise during its term. For that reason, they almost always include a grievance and arbitration procedure in the agreement. At each step of the grievance procedure, management can deny the union's claim. The final step of that procedure brings the matter before a neutral arbitrator jointly selected by the parties.

The procedures followed in appointing a neutral arbitrator and conducting an arbitration proceeding are well known.<sup>1</sup> In many instances, those procedures operate as intended, providing an efficient way to resolve disputes. Other times, parties may wait many months for their case to be heard and decided. Extreme delay in the resolution of grievance disputes ill-serves the parties who agreed to arbitration because they expected it to be expeditious. Delay also disserves national labor policy, which depends upon efficient arbitration to maintain labor peace.<sup>2</sup> "Justice delayed does not necessarily result in justice being de-

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Copyright 1986 by Roger I. Abrams and Dennis R. Nolan. This article is part of a work in progress, a treatise on labor arbitration to be published by West Publishing Company under the title *American Labor Arbitration*. An earlier version of this paper was delivered by Dean Abrams at the Section on Labor Law of the Association of American Law Schools in New Orleans, Louisiana, on January 4, 1986.

1. See generally O. FAIRWEATHER, PRACTICE AND PROCEDURE IN LABOR ARBITRATION 79-90 (2d ed. 1983).

2. In *John Wiley & Sons v. Livingston*, 376 U.S. 543, 558 (1964), Justice Harlan expressed concern that judicial interference might "entirely eliminate the prospect of a speedy arbitrated settlement of the dispute, to the disadvantage of the parties (who, in addition, will have to bear increased costs) and contrary to the aims of national labor policy." *Id.*; see generally *United Steelworkers v. Warrior & Gulf Navigation Co.*, 363 U.S. 574 (1960).



nied, but delay is a justifiable cause of employee resentment and friction."<sup>3</sup>

It would be easy to blame some over-burdened labor arbitrators for the delay, but that would be aiming at the wrong target. Employers and unions select these experienced neutrals with full knowledge of their busy schedules, preferring them to neophytes.<sup>4</sup> Perhaps the fault lies with the parties themselves.<sup>5</sup> It is not our purpose to fix blame, but to propose a new method of delivering arbitration services to supplement existing procedures, an alternative that would diminish the delay inherent in the present systems.

The procedures of labor arbitration can be improved and many have suggested ways of doing so.<sup>6</sup> Their proposals usually attempt to improve the process by eliminating some of its components, such as a full arbitration opinion. We propose to expedite arbitration not by truncating the process contemplated by the parties, but by supplementing the established ways of selecting an arbitrator. We suggest that arbitration firms could streamline the arbitration process and help it fulfill its promise of speed and efficiency.<sup>7</sup>

## II. The Present System of Delivering Arbitration Services Through the Appointing Agencies

When selecting an arbitrator to serve for a particular dispute, em-

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3. Davey, *What's Right and What's Wrong with Grievance Arbitration: The Practitioners Air Their Views*, 28 ARB. J. 209, 222 (1973).

4. See generally Primeaux and Brannen, *Why Few Arbitrators Are Deemed Acceptable*, MONTHLY LAB. REV., Sept. 1975, at 27.

5. "Parties who insist on experienced arbitrators must answer to their constituents for scheduling difficulties." Davey, *supra* note 3, at 222.

6. See, e.g., Shearer, *Reducing the Costs of Arbitration Through Increasing the Parties' Options*, ARB. J., June 1985, at 74; Sandver, Blaine and Woyar, *Time and Cost Savings through Expedited Arbitration Procedures*, ARB. J., Dec. 1981, at 11; Mittenthal, *Making Arbitration Work: Alternatives in Designing the Machinery*, ARB. J., Sept. 1981, at 35.

7. The American Arbitration Association (AAA) "is a private nonprofit organization founded in 1926 to foster the study of arbitration and other forms of alternative dispute resolution, to perfect the techniques of this method of dispute settlement under law and to administer arbitration in accordance with the agreement of the parties." AMERICAN ARBITRATION ASSOCIATION, *LABOR ARBITRATION: PROCEDURES AND TECHNIQUES* 23 (1975) (booklet). Congress created the Federal Mediation and Conciliation Service (FMCS) in the Taft-Hartley Act of 1947 "to assist parties to labor disputes in industries affecting commerce to settle such disputes through conciliation and media-



ployers and unions generally use one of the two appointing agencies, the American Arbitration Association (AAA), or the Federal Mediation and Conciliation Services (FMCS). The two agencies follow similar procedures. They supply the parties a list of neutrals selected from the agency's roster of labor arbitrators. The employer and union then choose the person who will be appointed to resolve their dispute, usually by alternate striking or by ranking the listed names. If they are unable to agree on an arbitrator, the appointing agency may select the person to serve.<sup>8</sup>

Selecting an arbitrator through an appointing agency takes considerable time — an average of almost three and one half months from the request for a panel to the appointment of an arbitrator.<sup>9</sup> A mutually acceptable arbitrator may not be selected from the first list supplied by the agency. A second list — and sometimes a third — would then be needed.

Once the arbitrator is appointed, a date for the hearing must be set. The average period of time from appointment of a FMCS arbitrator until the hearing in fiscal year 1985 was approximately four months,<sup>10</sup> but parties may have to wait as long as six months if they have selected a very popular arbitrator. The parties may decide not to wait that long and may begin again the process of arbitrator selection. That decision, of course, may not shorten the wait for an available hearing date from an acceptable arbitrator.

Under the current system of delivering arbitration services through the appointing agencies, on the average well over seven months elapses from the initial request for a list of neutrals until the arbitration hearing is held.<sup>11</sup> It is not surprising then that employers and unions com-

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tion." 29 U.S.C. § 173 (1970).

8. AMERICAN ARBITRATION ASSOCIATION VOLUNTARY LABOR ARBITRATION Rule 12 (1984); AMERICAN ARBITRATION ASSOCIATION, LABOR ARBITRATION: PROCEDURES AND TECHNIQUES 13 (undated) (booklet); 29 C.F.R. § 1404.13 (1985).

9. FMCS reported that in fiscal year 1985 an average 102.57 days elapsed between the request for the panel and the appointment of the arbitrator. It took only 5.80 days for the FMCS to submit a panel to the parties, but 96.77 days for the parties to select a name and for that selection to be communicated to the arbitrator. FMCS Automated Information Systems (fiscal year 1985) (memorandum distributed to members of FMCS labor panel by the agency, containing statistics to appear in 38th FMCS Annual Report (1985)).

10. *Id.* (120.56 days).

11. *Id.* (223.13 days).



plain about delays in arbitration.<sup>12</sup>

### III. Current Alternatives to the Use of Appointing Agencies

Frequent users of arbitration have adopted other systems of arbitrator appointment. The three most commonly used systems are: a permanent umpire, a permanent panel, and direct appointment. Each alternative has its advantages and disadvantages.<sup>13</sup>

Under a permanent umpire system, a single individual is selected to resolve all unsettled grievances during a specified period, usually for the duration of the contract. This approach eliminates much of the delay, especially if the umpire sets aside certain days each month to hear pending matters. It is not risk or cost free, however. A poor choice of an *ad hoc* arbitrator jeopardizes a single case; a poor choice of a permanent umpire risks the integrity of the entire dispute resolution system. The collective bargaining agreement may allow either party to terminate the umpire, but this creates other problems, such as instability. The permanent umpire system also presents the risk that the neutral might abandon the role of adjudicator and contract reader and substitute his judgment for that of the parties, thereby assuming managerial functions.<sup>14</sup>

Parties sometimes select a permanent panel of arbitrators to hear all matters arising during all or part of the term of the collective agreement. Arbitrators are then appointed from this preselected list to resolve individual disputes. Unless the panel members are more readily available than *ad hoc* arbitrators, the panel system would simply replicate the problem of delay:

The panel . . . is usually made up of arbitrators who may well be individually and collectively in a chronic state of overcommitment. Thus, employers and unions who jointly desire prompt hearings

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12. See, e.g., Graham, Heshizer and Johnson, *Grievance Arbitration — Labor Officials' Attitudes*, ARB. J., June 1978, at 21, 24 ("The greatest area of concern . . . is the problem of delay."); Davey, *supra* note 3; Jones and Smith, *Management and Labor Appraisals and Criticisms of the Arbitration Process: A Report with Comments*, 62 MICH. L. REV. 1115 (1964).

13. See W. SIMKIN AND V. KENNEDY, *ARBITRATION OF GRIEVANCES*, DIV. LAB. STANDARDS, U.S. DEP'T OF LABOR, BULL. 82 (1946), quoted in D. ROTHCHILD, L. MERRIFIELD & H. EDWARDS, *COLLECTIVE BARGAINING AND LABOR ARBITRATION* 288, 291 (2d ed. 1979).

14. See Nolan and Abrams, *American Labor Arbitration: The Maturing Years*, 35 U. FLA. L. REV. 557, 611-13 (1983) (discussing the views of George Taylor).



may be no better off than those who use a single permanent arbitrator or take pot luck on *ad hoc* panels from AAA or FMCS.<sup>15</sup>

The parties may agree that the panel arbitrator with the first available date will hear the matter, but this necessitates contacting all the arbitrators. Alternatively, the parties may select a date and then contact the panel arbitrators to find one available on that date. Either alternative involves significant transaction costs. Moreover, as with the permanent umpire, the parties risk appointment of a poor arbitrator with whom they may be burdened for the contract's duration.

The other common alternative to selection through appointing agencies is direct appointment by the parties. Experienced parties may agree to use a particular neutral for a specific case and then contact him directly. Even assuming they can make a choice more quickly on their own, parties still face the problem of obtaining an early hearing date. Direct appointment may be worse in this regard than appointment from a list, because parties would be likely to agree only on the most experienced arbitrators — the very ones least likely to be available immediately. If they cannot quickly settle on an individual, the appointment process will be further delayed.

The alternatives to the use of an appointing agency in the selection of arbitrators provide some significant advantages to the parties. The parties can select exactly who they want to serve as their arbitrator without relying on the agency to place acceptable persons on a randomly selected list. The alternatives also reduce delay. These benefits come at a high cost, however. Parties forfeit flexibility and risk a commitment to an unsatisfactory choice by using a permanent umpire or a permanent panel. Direct appointment is impossible if they cannot agree, or it may be as time consuming as appointment through an agency. As we shall see, the arbitration firm offers an alternative to present selection systems that combines the best qualities of the permanent and direct appointment methods while diminishing the costs involved in using those systems.

#### IV. A Proposal for the Delivery of Arbitration Services

We propose a supplementary method of delivering arbitration services — the arbitration firm. Firms of arbitrators could dramatically speed up the arbitration process while providing the highest quality of

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15. Davey, *supra* note 3, at 220-21.



services. Arbitration firms make sense both for the parties and for the arbitrators who will form them.

Today almost all arbitrators operate as individual entrepreneurs — as full-time or part-time neutrals acting as sole proprietors.<sup>16</sup> The appointing agency notifies the arbitrator of an appointment to hear a case. The arbitrator checks his calendar and supplies the parties with available dates. Only after selecting an arbitrator do the parties learn how long they will have to wait for a hearing and a decision. Arbitration has operated this way for decades.

### A. *The Law Firm Analogy*

At one time, most attorneys also were sole practitioners, with only a few in small partnerships. About a century ago, considerations of efficiency, specializations, and the need to service large enterprises prompted lawyers to form larger firms.<sup>17</sup> A firm of lawyers could share overhead costs, such as office space, libraries and clerical help. As a firm grew in size, attorneys could specialize in particular areas of the law. Over time, the law firm developed an institutional reputation in the lawyer market which differentiated it from other firms and from sole practitioners in terms of the type, quality and cost of services. Both law firm members and their clients benefited from economies of scale.

By comparison with the legal profession, labor arbitration is still a cottage industry. Law firms present a useful model for some arbitrators to follow. Labor arbitrators can form small arbitration firms and improve their services at the same time they increase their income.

### B. *The Arbitration Firm: A Proposal*

The arbitration firm could be a partnership formed by three or four experienced labor arbitrators.<sup>18</sup> Carrying their individual “prac-

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16. A very few arbitrators join in small firms, which often are little more than office-sharing arrangements. Some arbitrators serve as mentors, training future arbitrators while their “students” help research and prepare awards. Neither of these alternatives presents all the advantages of the arbitration firm, as we shall discuss below.

17. See Hobson, *Symbol of the New Profession: Emergence of the Large Law Firm, 1870-1914*, in *THE NEW HIGH PRIESTS: LAWYERS IN POST-CIVIL LAW AMERICA* 3 (G. Gawalt, ed. 1984).

18. There is no reason why a formal partnership must be established in order to achieve the efficiencies in arbitral selection suggested here. The key element, discussed below, is a pool of available hearing dates, which can be used without the other account-



tices" with them, the partners would at first continue to receive most of their appointments through current channels of arbitrator selection. They would no doubt remain listed on the AAA and FMCS arbitrator rosters. The creation of the firm would only increase, not decrease, their individual caseloads.

The firm should be able to deliver arbitration services more expeditiously than present selection methods because parties could obtain the first available hearing date of any of the arbitrator-partners. Employers and unions would agree that the firm would provide the arbitration services, much as a law firm provides legal services and an accounting firm supplies accounting services. Upon first contact, the hearing coordinator at the firm — a good secretary could perform this function — would offer the parties the earliest available hearing for any of the arbitrator-partners.<sup>19</sup>

The arbitration firm would reduce delay because busy arbitrators experience a high incidence of late cancellations of scheduled hearings. It is common for parties to notify an arbitrator shortly before a scheduled hearing that they have settled the case or need to postpone the hearing. An arbitrator in sole practice would find it difficult to schedule another hearing for that date on short notice. In a firm of three or four busy arbitrators each scheduling two or three hearings a week, such a cancellation would provide an available day to be used by any of the firm's clients. A firm with three or four times the normal arbitrator's caseload would be much more likely to make use of the cancelled hearing day, much to the advantage of the arbitrator and parties who wish to have a matter heard expeditiously.

### *C. The Arbitration Firm in Operation*

The following hypothetical illustrates how the firm system would operate. Arbitrators Able, Baker and Carey practice their profession in a major metropolitan area. They are well-known neutrals, who are members of the National Academy of Arbitrators and serve on numer-

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rements of a partnership. Legal and financial advantages make the formal partnership arrangement attractive however, and for convenience we use that form as the model for the arbitration firm.

19. Alternatively, parties may wish to have a particular member of the firm serve as their arbitrator. That would certainly be possible, as it is under the present system. In that case, the parties must, of course, be willing to wait until that arbitrator has an available date. The clients would still benefit from the lower costs associated with the firm.



ous permanent panels. They are generally acceptable to most employers and unions for most cases.

Auto Supply, Inc., a local manufacturer, discharges an employee and the United Auto Workers (UAW) local representing the production unit processes the matter through the contract's grievance procedure. The union then demands arbitration. Auto Supply and the UAW agree that the firm of Able, Baker and Carey will provide the arbitration service. The company and the union contact the firm and request that the partner with the earliest available date hear the matter. Able and Baker have no available dates for three months. Since Carey has a day free in a few weeks, he is appointed to resolve the dispute.

## V. Advantages of the Arbitration Firm Model

The arbitration firm model could reduce substantially the delay inherent in the present system of selection of arbitrators through the appointing agencies. First, it eliminates the time necessary to obtain a list of neutrals from an agency and to select the arbitrator from that or subsequent lists. In addition, the arbitration firm system should reduce the period between the arbitrator's appointment and the hearing. The parties would be offered the first available hearing date of any member of the firm.

How does this model differ from methods presently available? The arbitration firm might be seen as a variation of the *ad hoc* direct appointment system. Nothing prohibits parties from contacting a number of experienced arbitrators on an individual basis to determine who has the earliest available hearing date. The transaction costs of such an alternative are high, which explains why it is rarely undertaken. The arbitration firm model virtually eliminates these costs.

In some ways, the arbitration firm operates as a permanent panel for the *ad hoc* appointment of neutrals. Parties enjoy all the advantages of a panel — the expeditious selection of arbitrators and the "earliest date" concept sometimes used under a panel system. At the same time, parties using the arbitration firm would experience few of the disadvantages of a permanent panel. A party is not stuck with a "lemon" panel member for the duration of his term. A party not pleased with the product of an arbitration firm may reject a member of the firm or go some other route (or to some other arbitration firm) the next time arbitration services are needed. This flexibility is not possible under a permanent panel system.

In addition, use of the arbitration firm would not entail the costs



normally involved in establishing and maintaining a permanent panel. Some parties — the unionized coal industry, for example — employ officers to administer their panel system. The process of contacting each of the individual panel members to ascertain their earliest date (where that is part of the parties' panel system) would be eliminated.

The internal pressure created by firm partners might also shorten the delay following the close of the hearing and the issuance of the arbitrator's decision. Returning to our hypothetical firm of Able, Baker and Carey, if Arbitrator Carey were to unduly delay his award, the firm's reputation, not just his, would be jeopardized. Each member of the firm will thus have an interest in ensuring that the others promptly render their awards. Peer pressure would be more effective than the hesitant and sporadic pressure of parties or appointing agencies.

Why would experienced, acceptable arbitrators join an arbitration firm? Numerous advantages would flow to individual arbitrators. First, partners would share support services, such as secretaries, word processing equipment and research facilities. The economies of scale are readily apparent. Second, arbitrators in a firm setting would enjoy a measure of collegiality rare in the profession outside of annual meeting of the National Academy of Arbitrators.<sup>20</sup> The interdiction of fellow arbitrators on difficult issues would benefit neutrals and parties alike. Third, as the firm becomes known for its quality and efficiency, it would attract more business than its individual members would on their own, a form of synergy.

## VI. Potential Disadvantages of the Arbitration Firm Model

There are potential disadvantages in adopting the arbitration firm model. One problem might be that employers and unions would not use the firm. Parties currently select a particular person, not an organization, to serve as arbitrator. The parties generally know a good deal about the neutral they select; often he or she will have served them previously. They trust the arbitrator's integrity, ability, fairness and clarity of thought. They may be reluctant to contract with a firm to provide arbitration services.

There are a number of responses to this potential problem. There is good reason to believe that parties experienced in arbitration, especially those represented by counsel, would take advantage of the firm because they would appreciate its advantages. In many geographic re-

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20. Seitz, *The Arbitrator's Lot*, *ARB. J.*, March 1983, at 53.



gions, there are a number of experienced neutrals fully acceptable to employers and unions for almost any case. Typical parties would be satisfied to have *any one of those persons* resolve their dispute. Why should that change because those acceptable arbitrators have formed a firm and might now be able to offer a pool of available early dates for hearings? If Able, Baker and Carey are equally acceptable for a discharge case and Auto Supply, Inc. and the UAW want a matter resolved quickly, there is no reason why they would not contact the firm to provide the arbitration — and provide it quickly and expertly.

The arbitration firm model presents labor and management with a system they can adapt to their own purposes in any given case. In a particular dispute, a party may decide that one or more of the firm partners is unacceptable. In that case, the firm could provide the earliest available dates of the remaining partners. The firm model remains useful. Parties need not be required to accept all partners for all cases.

While it is true that employers and unions have no experience in choosing a firm to provide arbitration services, using an appointing agency is not very different. When parties follow the AAA's Voluntary Labor Arbitration Rules, they agree that the agency may make a direct appointment of an arbitrator if they cannot agree on a selection.<sup>21</sup> Under FMCS regulations, the agency may make a direct appointment "when the applicable collective bargaining agreement authorizes . . . ." <sup>22</sup> Thus at times parties have selected an organization — the appointing agency — to provide arbitration services. Selection of an arbitration firm is but a small step.

There is another potential problem: one party may not want the dispute resolved expeditiously. For one example, an employer might be reluctant to have an arbitrator rule on an exercise of an asserted managerial right. In such instances, the existing selection processes provide ready opportunity for delay. That is rare though — most parties want the quickest possible resolution. We emphasize that the firm would be an option available to those who want it. Parties new to arbitration will find the traditional appointing agency method more suitable because it would introduce them to more arbitrators and because they are unable to evaluate a firm's expertise without some practical experience. When the parties want a quick resolution of their dispute and are sufficiently experienced in the ways of arbitration, the arbitration firm model will

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21. AMERICAN ARBITRATION ASSOCIATION VOLUNTARY LABOR ARBITRATION Rule 12 (1984).

22. 29 C.F.R. § 1404.13(c).



fulfill their needs better than existing systems.

A third potential problem is the lack of suitable partners for the arbitration firm. The success of the firm concept depends upon the presence of a critical mass of experienced, highly acceptable arbitrators in one geographic area. In some areas of the country, there may be too few arbitrators of this caliber to form an arbitration firm. On the other hand, such firms could probably be created in most major metropolitan areas.<sup>23</sup> Where there are a number of such arbitrators, we would expect them to be interested in the firm concept because it is almost a no-risk proposition. Even if parties do not choose to use the full advantages of the firm, arbitrator-partners would suffer no loss. They will continue to receive appointment through current channels. It may take time for parties to begin to make use of the firm, but in the interim the arbitrator-partners will enjoy economies of scale and collegiality.

Some might be concerned that the firm mode of delivering arbitration services would be so efficient that there would be less need — or perhaps no need — for the appointing agencies. That seems quite unlikely. Appointing agencies will always be needed by parties inexperienced in arbitration or unwilling to use the arbitration firm or alternative methods. Arbitration firms would supplement, not supplant, the appointing agencies.

One other potential impact of the arbitration firm should be mentioned. There is the possibility that a partnership of the generally acceptable arbitrators in any geographic region would enjoy substantial market power and might use that power to increase their per diem rates. Some arbitrators might find the prospect of enhancing their rates to be sufficient reason for creating the arbitration firms. More costly arbitration is hardly a goal worth advocating publicly, however. The fear is likely to prove groundless in any event, because the availability of other firms and arbitrators will limit the power of a single firm. Even assuming the demand for arbitration services is very price elastic — an assumption *not* born out by the empirical evidence<sup>24</sup> — parties would be free to use present selection devices if they found the arbitration firm's members too costly. If there were an increase in per diem charges, the parties might nevertheless decide that improvements in

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23. The firm model also appears better suited for full-time rather than part-time arbitrators, but there is no reason why a fully acceptable part-time arbitrator should be excluded from such an arrangement.

24. See Lawson, *Arbitrator Acceptability: Factors Affecting Selection*, *ARB. J.*, Dec. 1981, at 22, 26.



speed and efficiency justified the higher rates of the arbitration firm.

## VII. Stages of Development of the Arbitration Firm

We have seen that initially the arbitration firm would combine in one office the practices of a small number of experienced, acceptable arbitrators who would retain their prior practices and enjoy the economies of scale that flow from combining their offices. In addition, arbitrator-partners would enjoy a potential for collegiality rare in the lonely profession of the labor arbitrator. One would think these benefits alone would be sufficient to encourage full-time arbitrators to consider the firm model. Once formed, the firm could then provide the additional service of supplying early hearing dates for parties who seek speedy resolution of their disputes. Here the efficiencies of the firm model would begin to benefit both the arbitrators and the potential purchasers of their services.

At its second stage of development, the firm might hire associates — persons who aspire to join the profession — to assist arbitrator-partners in the research and drafting of arbitration opinions. The final opinions would remain the responsibility of the appointed neutral,<sup>25</sup> but opinion-award writing would be made more efficient. An individual arbitrator might not be able to afford to hire a full-time associate; a firm of three or four neutrals certainly could hire one or more.

At this stage, the arbitration firm could serve the additional role of providing systematic training for new arbitrators. There are no institutions in this country for training labor arbitrators.<sup>26</sup> Arbitrators who are not yet fully employed might argue that there is no need for more arbitrators, but there have been many complaints of a shortage of qualified arbitrators.<sup>27</sup> The arbitration firm could train the arbitrators that are needed in the future.

At an advanced stage of development, the arbitration firm might

25. CODE OF PROFESSIONAL RESPONSIBILITY FOR ARBITRATORS OF LABOR-MANAGEMENT DISPUTES § 1(H) (1974).

26. Numerous proposals have been made for training arbitrators. See generally Sinicropi, *Arbitrator Development: Programs and Models*, ARB. J., Sept. 1982, at 24; Dorr, *Labor Arbitration Training: The Internship*, ARB. J., June 1981, at 4; Zack, *Who Is Responsible for the Development of Arbitrators — The Parties or the Arbitrators?*, ARB. J., June 1981, at 11.

27. Robins, *The Presidential Address: Threats to Arbitration*, 34 PROC. NAT'L ACAD. ARB. 1 (1982); Zack, *The Retraining of Arbitrators*, ARB. J., March 1978, at 31.



follow the pattern set by law firms. The firm might grow in size as it developed an institutional reputation. Arbitrators might develop specialties in particular types of cases — for example, in pensions or job rating cases, in public sector interest arbitration, or in mediation. Parties could contact the firm seeking an arbitrator with expertise in a particular area. Clients might be able to choose from a variety of arbitration firms, differentiated in terms of price, experience, specialties, and reputation.

### VIII. Conclusion

Companies and unions choose arbitration in part because of its promised speed. What they often receive instead is a ponderous process. In some instances, labor arbitration does not fulfill its promise because of the inherent delays of the present procedures for arbitrator selection. The arbitration firm has the potential of decreasing much of this delay. Arbitration firms may be the best way to achieve the benefits for which the parties bargained when they agreed to an arbitration system for resolving their disputes.